

State Allocation Board
Implementation Committee
October 3, 2003

BOND ACCOUNTABILITY

BACKGROUND

Concerns have recently been expressed over a school district placing funds received from the State Allocation Board (SAB) directly into the District's General Fund without reimbursing its Capital Project Fund if that was the original source of the project expenditure. In response to the concern, the SAB directed the Office of Public School Construction (OPSC) to request an opinion from the Attorney General (AG) regarding this issue. As a part of that specific question, the AG was asked to consider the position by the OPSC/SAB that reimbursement of eligible project expenditures satisfies all legal requirements pertaining to the use of State bond funds. The AG was also asked to clarify the position by the OPSC/SAB that once reimbursement of eligible project expenditures occurs, the funding loses its identity as State bond funds and is no longer under the control or authority of the SAB.

The AG opined that the OPSC/SAB positions met the requirements of State law but indicated concern that the transfer of State bond money directly into a district's General Fund, when the project costs were initially funded by local bond funds, could violate the intent of the local and State bond funds. Based on this concern, the AG recommended that current SFP regulations be amended to clarify accounting responsibilities and to seek advice of tax counsel.

The OPSC subsequently hired an independent tax counsel to review a proposed "bond accountability" regulation, existing law and SFP regulations to ensure that the tax-exempt status of the State and local bonds is not jeopardized.

DISCUSSION

The primary bond accountability issue is created by school districts that utilize local bonds to pay for the local and State project funding shares and do not refund the local bond for the State's share when State funding is provided to the district. Utilizing State funds for General Fund operational purposes and not refunding that share of local bonds utilized to meet the State's share could jeopardize the tax-exempt status of both the State and local bonds. Furthermore, another concern relates to situations where the district's Capitol Project Fund is reimbursed for the State's share of eligible expenditures and the amount of the duplicated reimbursement expenditure funding is transferred out of the Capital Project Fund for other uses. This is problematic since the funding was previously made from the Capitol Project Fund utilizing local funding and upon reimbursement with State funding the duplicate monies should remain in that fund for other authorized purposes pursuant to the California School Accounting Manual.

The attached regulation has been reviewed and approved by the AG's office and the independent tax counsel. This regulation will essentially:

- Clarify how State bond funds are to be used in reimbursement of the State's share on locally funded projects.
- Provide direction relative to the type of substantiating evidence that will be necessary during an audit to demonstrate appropriate use of State bond funds.
- Specify that school districts unable to conform to this regulation may be subject to material inaccuracy provisions.

RECOMMENDATION

Present to the SAB the proposed bond accounting regulations.

1859.90.1 Local Bond Reimbursement Fund Releases.

School districts that utilized local bonds to pay for eligible project costs shall be eligible for reimbursement of the state's share of the project when the state funds are allocated to a project for costs already paid with local bond funds shall be used as follows:

- a) To the cost of retiring the local bonds; or
- b) To capital expenditures of the district that are consistent with the Leroy F. Greene School Facilities Act that have not otherwise been financed from the proceeds of another state or local bond.

In accordance with Section 1859.106, school districts should be prepared to provide evidence of the amount and source or type of other bond funds used for the project and the other capital expenditures that will be reimbursed with the state apportionment, in the event the state apportionment will not be used for the SAB approved project or to retire local bonds.

Any school district that uses an allocation in a manner that is inconsistent with this provision shall be subject to the provisions prescribed in Sections 1859.104.1, 1859.104.2, and 1859.104.3.

Revisions to the SAB 50-05:

Include an additional certification that the state apportionment will be used in accordance with requirements of Section 1859.90.1.